

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

DOUGLAS BENEDICT,

Plaintiff,

CIVIL ACTION NO. 11-CV-14851

vs.

DISTRICT JUDGE PATRICK J. DUGGAN

MAGISTRATE JUDGE MONA K. MAJZOUN

**DEBORAH L. FOSTER, JEFF
DREFKE, JOHN WOODARD, JANE
DOE, and JOHN DOE**

Defendants.

ORDER GRANTING DEFENDANTS' MOTION TO STAY DISCOVERY [33]

This is a *pro se* civil rights action filed by a Michigan state prisoner. Defendants Deborah L. Foster, Jeff Drefke, and John Woodard have filed a Motion to Dismiss that is now pending. (Docket no. 26.) In connection with that motion, these same three Defendants filed a Motion to Stay Discovery. (Docket no. 33). Plaintiff has not responded to Defendants' Motion. All pretrial matters have been referred to the undersigned for action. (Docket no. 22). The Court dispenses with oral argument on the motion pursuant to E.D. Mich. LR 7.1(f). The motion is now ready for ruling pursuant to 28 U.S.C. § 636(b)(1)(A).

On May 31, 2012, Plaintiff filed with the Court his Motion for First Admission from Defendant (docket no. 29), and on June 6, 2012, Plaintiff filed his Motion for Second Admission on Defendants (docket no. 32). While these filings do not appear to be discovery requests made under the Federal Rules of Civil Procedure, Defendants nevertheless moved for a stay of discovery until the Court resolves the qualified-immunity issue raised in their pending Motion to Dismiss. (Docket

no. 33). Because this is a *pro se* prisoner proceeding, it is exempted from the initial disclosure requirements of Rule 26. Fed.R.Civ.P. 26(a)(1)(B)(iv). In addition, Defendants raise the defense of qualified immunity as state employees in their Motion to Dismiss. (Docket no. 26). The Sixth Circuit has made clear that when such a motion is filed, discovery should not be allowed until after the immunity question is resolved. *Skousen v. Brighton High School*, 305 F.3d 520, 526-27 (6th Cir. 2002). Therefore, discovery will be stayed pending consideration of Defendants' Motion to Dismiss.

IT IS THEREFORE ORDERED that Defendants' Motion to Stay Discovery [33] is **GRANTED**.

NOTICE TO THE PARTIES

Pursuant to Fed. R. Civ. P. 72(a), the parties have a period of fourteen days from the date of this Order within which to file any written appeal to the District Judge as may be permissible under 28 U.S.C. 636(b)(1).

Dated: October 17, 2012

s/ Mona K. Majzoub

MONA K. MAJZOUB

UNITED STATES MAGISTRATE JUDGE

PROOF OF SERVICE

I hereby certify that a copy of this Order was served upon Douglas Benedict and Counsel of Record on this date.

Dated: October_17, 2012

s/ Lisa C. Bartlett

Case Manager